



General Assembly

Substitute Bill No. 889

January Session, 2013



***AN ACT CONCERNING THE UNIVERSITY OF CONNECTICUT AND
COMPETITIVE BIDDING FOR AGRICULTURAL PURCHASES BY THE
CONSTITUENT UNITS OF HIGHER EDUCATION.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (c) of section 10a-109n of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective July*
3 *1, 2013*):

4 (c) (1) Any construction contract to which the university is a party
5 may include a provision that the design professional who designed the
6 project, or an architect or professional engineer or construction
7 manager retained or employed specifically for the purpose of
8 supervision, may supervise the work to be performed through to
9 completion and ensure that the materials furnished and the work
10 performed are in accordance with the drawings, plans, specifications
11 and contracts therefor.

12 (2) (A) Except as provided in subparagraph (B) of this subdivision,
13 any total cost basis contract or other contract for the construction of a
14 university project which is estimated to cost more than five hundred
15 thousand dollars, shall be publicly let by the university. The university
16 shall give notice to contractors interested in prequalifying to submit a
17 project proposal or bid, by [advertising, at least once, in one or more
18 newspapers having general circulation in the state and by posting the

19 advertisement on the university web site] posting on the Internet. The
20 notice to prequalify shall contain the requirement that contractors be
21 prequalified pursuant to section 4a-100, a statement of the time and
22 place where the responses shall be received and such additional
23 information as the university deems appropriate. Upon receipt of such
24 responses, the university shall select each contractor who has been
25 prequalified pursuant to section 4a-100 and has shown itself able to
26 post surety bonds required by such contract and has demonstrated
27 that it possesses the financial, managerial and technical ability and the
28 integrity necessary and without conflict of interest for faithful and
29 efficient performance of the work provided for therein. The university
30 shall evaluate whether each such contractor is responsible and
31 qualified based on its experience with projects similar to that for which
32 the bid or proposal is to be submitted and based on objective written
33 criteria included in the application to request prequalification with
34 respect to such contract. The university shall also consider whether a
35 contractor, and any subcontractor on the contractor's previous projects,
36 has been in compliance with the provisions of part III of chapter 557
37 and chapter 558 during the previous five calendar years.

38 (B) Notwithstanding the provisions of subparagraph (A) of this
39 subdivision, the board of trustees may approve a total cost basis
40 contract or other contract for the construction of a university project
41 which is estimated to cost more than five hundred thousand dollars
42 that has not been publicly let pursuant to the provisions of said
43 subparagraph (A), provided the board deems the contract to address
44 an emergency.

45 (3) The university shall thereafter give notice to those so
46 prequalified by the university pursuant to subdivision (2) of this
47 section of the time and place where the public letting shall occur and
48 shall include in such notice such information of the work required as
49 appropriate. Each bid or proposal shall be kept sealed until opened
50 publicly at the time and place as set forth in the notice soliciting such
51 bid or proposal. The university shall not award any construction

52 contract, including, but not limited to, any total cost basis contract,
53 after public letting, except to the responsible qualified contractor,
54 submitting the lowest bid or proposal in compliance with the bid or
55 proposal requirements of the solicitation document. The university
56 may, however, waive any informality in a bid or proposal, and may
57 either reject all bids or proposals and again advertise for bids or
58 proposals or interview at least three responsible qualified contractors
59 and negotiate and enter into with any one of such contractors that
60 construction contract which is both fair and reasonable to the
61 university.

62 (4) The notice to each contractor prequalified to submit a proposal
63 or bid and the construction contract, including each total cost basis
64 contract, awarded by the university shall contain such other terms and
65 conditions, and such provisions for penalties as the university may
66 deem appropriate.

67 (5) No payments shall be made by the university on account of any
68 contract for the project awarded by or for the university until the bills
69 or estimates presented for such payment shall have been duly certified
70 to be correct by the university. No payments shall be made from any
71 other fund on account of any contract for any project awarded by or
72 for the university until the bills or estimates presented for such
73 payment shall have been duly certified to be correct by the university.

74 (6) Provision shall be made in each contract to the effect that
75 payment is limited to the amount provided therein and that no liability
76 of the university or state shall and may be incurred beyond such
77 amount.

78 (7) The university shall require, for the protection of the state and
79 the university, such deposits, bonds and security in connection with
80 the submission of bids or proposals, the award of construction
81 contracts and the performance of work as the university shall
82 determine to be appropriate and in the public interest of the state.

83 (8) Any contract awarded by the university shall be a contract with
84 the state acting through the university.

85 (9) The university shall not enter into a construction manager at-risk
86 project delivery contract that does not provide for a maximum
87 guaranteed price for the cost of construction which shall be
88 determined not later than the time of the receipt and approval by the
89 university of the trade contractor bids. Each construction manager at-
90 risk shall invite bids and give notice of opportunities to bid on project
91 elements, by [advertising, at least once, in one or more newspapers
92 having general circulation in the state] posting on the Internet. Each
93 bid shall be kept sealed until opened publicly at the time and place as
94 set forth in the notice soliciting such bid. The construction manager at-
95 risk shall, after consultation with and approval by the university,
96 award any related contracts for project elements to the responsible
97 qualified contractor, who shall be prequalified pursuant to section 4a-
98 100, submitting the lowest bid in compliance with the bid
99 requirements, provided (A) the construction manager at-risk shall not
100 be eligible to submit a bid for any such project element, and (B)
101 construction shall not begin prior to the determination of the
102 maximum guaranteed price, except for the project elements of site
103 preparation and demolition that have been previously put out to bid
104 and awarded.

105 (10) If the university designates a project as suitable for a design-
106 build contract, the university may enter into a single contract with the
107 design-builder whom the university may select from among the
108 design-builders selected and recommended by a selection panel. The
109 contract shall (A) include, but not be limited to, such project elements
110 as site acquisition, permitting, engineering, design and construction,
111 and (B) be based on competitive proposals received by the university,
112 which shall give notice of the project and specifications for the project
113 by posting on the Internet. Award of the design-build contract shall be
114 based on a predetermined metric provided to each proposer in
115 advance of such proposer's development of a technical proposal. Such

116 metric may be unique to each project, but shall consist of a combined
117 score of qualifications and past performance of the proposer, technical
118 merit of the proposal and project cost. The university shall establish a
119 selection panel for each project to score the qualifications and past
120 performance of the proposer and the technical portion of the proposal
121 using the predefined scoring metric. No such contract for which the
122 total cost is estimated to be more than five hundred thousand dollars
123 may be awarded to a design-builder who is not prequalified for the
124 work in accordance with section 4a-100. The university shall determine
125 all other requirements and conditions for such proposals and awards
126 and shall have sole responsibility for all other aspects of such contracts.
127 Such contracts shall state the responsibilities of the design-builder to
128 deliver a completed and acceptable project or product on a date certain
129 and the maximum cost of the project or product and, if applicable, as a
130 separate item, the cost of site acquisition.

131 Sec. 2. Subsection (a) of section 1-217 of the general statutes is
132 repealed and the following is substituted in lieu thereof (*Effective July*
133 *1, 2013*):

134 (a) No public agency may disclose, under the Freedom of
135 Information Act, from its personnel, medical or similar files, the
136 residential address of any of the following persons employed by such
137 public agency:

138 (1) A federal court judge, federal court magistrate, judge of the
139 Superior Court, Appellate Court or Supreme Court of the state, or
140 family support magistrate;

141 (2) A sworn member of a municipal police department, a sworn
142 member of the Division of State Police within the Department of
143 Emergency Services and Public Protection or a sworn law enforcement
144 officer within the Department of Energy and Environmental
145 Protection;

146 (3) An employee of the Department of Correction;

147 (4) An attorney-at-law who represents or has represented the state
148 in a criminal prosecution;

149 (5) An attorney-at-law who is or has been employed by the Division
150 of Public Defender Services or a social worker who is employed by the
151 Division of Public Defender Services;

152 (6) An inspector employed by the Division of Criminal Justice;

153 (7) A firefighter;

154 (8) An employee of the Department of Children and Families;

155 (9) A member or employee of the Board of Pardons and Paroles;

156 (10) An employee of the judicial branch;

157 (11) An employee of the Department of Mental Health and
158 Addiction Services who provides direct care to patients; [or]

159 (12) A member or employee of the Commission on Human Rights
160 and Opportunities; [.] or

161 (13) An employee of The University of Connecticut Health Center
162 who provides direct patient care to inmates in the custody of the
163 Department of Correction or psychiatric or mental health inpatient or
164 outpatient services to the general public.

165 Sec. 3. Subdivision (28) of section 10a-109c of the general statutes is
166 repealed and the following is substituted in lieu thereof (*Effective July*
167 *1, 2013*):

168 (28) "Total cost basis contract" means a design-build contract or a
169 construction manager at-risk project delivery contract between The
170 University of Connecticut and a contractor to accomplish multiple
171 elements of a project, including, but not limited to, site acquisition,
172 architectural design, preconstruction activities, project management
173 and construction.

174 Sec. 4. Subsection (c) of section 10a-151b of the general statutes is
 175 repealed and the following is substituted in lieu thereof (*Effective July*
 176 *1, 2013*):

177 (c) Notwithstanding the provisions of subsection (b) of this section
 178 to the contrary, competitive bidding or competitive negotiation is not
 179 required in the case of (1) minor purchases of ten thousand dollars or
 180 less in amount, (2) purchases made pursuant to subsection (k) of this
 181 section, [or] (3) emergency purchases, or (4) agricultural purchases of
 182 dairy products, poultry, seafood, beef, eggs, fruits, vegetables or other
 183 farm products in an amount of fifty thousand dollars or less.
 184 Whenever an emergency exists by reason of extraordinary conditions
 185 or contingencies that could not reasonably be foreseen and guarded
 186 against, or because of unusual trade or market conditions, the chief
 187 executive officer may, if it is for the best interest of the state, make
 188 purchases without competitive bidding. A statement of all emergency
 189 purchases made under the provisions of this subsection shall be set
 190 forth in the annual report of the chief executive officer. The chief
 191 executive officer, when making an agricultural purchase in accordance
 192 with subdivision (4) of this subsection, shall give preference to dairy
 193 products, poultry, eggs, fruits or vegetables grown or produced in this
 194 state when such products, poultry, eggs, fruits or vegetables are
 195 comparable in cost to other dairy products, poultry, eggs, fruits or
 196 vegetables being considered for purchase by the chief executive officer
 197 that have not been grown or produced in this state.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2013</i>	10a-109n(c)
Sec. 2	<i>July 1, 2013</i>	1-217(a)
Sec. 3	<i>July 1, 2013</i>	10a-109c(28)
Sec. 4	<i>July 1, 2013</i>	10a-151b(c)

HED *Joint Favorable Subst.*